

OCA 88-2186  
28 June 1988

OCA FILE

SSCI

## MEMORANDUM FOR THE RECORD

SUBJECT: Briefing of SSCI Staffer on the Parental and Medical Leave Act (S. 2488)

1. Yesterday, I met with Britt Snider, minority counsel for the SSCI, to brief him on the impact of S. 2488--The Parental and Medical leave Act.

2. I provided him with a review of the bill, the problems, and the changes we were seeking (see attached). I explained that we had sought relief both through the HPSCI and the Post Office and Civil Service Committee to no avail. I informed him that the Senate Labor Human Resources Committee will hold mark up on 13 July and that the Governmental Affairs Committee had not asked for a sequential referral despite Title II directly affecting Federal employees. It was, I explained, unfortunate that Governmental Affairs had made that decision because the staff had agreed to fix our problems. Asked why the Governmental Affairs Committee had deferred, I informed Snider the best I could determine was they did not want to enter the fight. I advised him that the Administration was threatening a veto because of the implications for the business community. I explained we had two SSCI Members who also sit on the Senate Labor Committee--Senators Hatch (R, UT) and Metzenbaum (D, OH).

3. He suggested that I contact the Committee staff directly to plead our case. He agreed that he supported our position and that should we fail in gaining assistance from the Labor Committee he would see what could be done through Senator Hatch.

4. I am arranging to meet with members of the minority staff of the Labor Human Resources Committee. I have dealt with them before and found them reasonable. Also, Hatch is ranking minority member of this committee, and I know through OPM that he is opposing the S. 2488. Hence, I think I will find a more sympathetic audience.

STAT

✓Congressional Affairs

cc: DDA  
D/OP  
DD/CAP/OP  
D/OCA  
OCA/LD,

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ADMINISTRATIVE/INTERNAL USE ONLY

S.2488--Parental and Medical Leave Act  
Title II-- Civil Service Employees

Section 6332 entitles Federal employees to 10 work weeks of leave during any 24 month period in event of the birth or adoption of a child or in the case of a serious health problem. If agencies have paid parental leave, but such leave is less than the full ten weeks, the employee is entitled to the difference in unpaid leave. Employee or agency may elect to substitute annual or personal leave for any part of the 10 week period.

Section 6333 entitles Federal employees up to 13 weeks of leave during a 12 month period in the event to a serious health condition which prohibits performance of functions. If agencies have paid temporary medical leave or sick leave, but for less than 13 weeks, the difference may be unpaid. An employee or agency may elect to substitute vacation, sick, or other appropriate paid leave.

Section 6335 entitles employee to the same position held by the employee immediately prior to the commencement of leave.

Section 6336 prohibits coercion, intimidation designed to interfere with the exercise of employee rights.

Section 6338 OPM establishes regulations for administration consistent with those prescribed by Secretary of Labor under Title I.

Title III-- The Commission

Section 305 (b) provides for Commission to take testimony as the Commission considers appropriate. Commission may administer oaths.

Section 305 (c) gives Commission access to information necessary to carry out the Act. At the request of chairperson, the head of the agency shall furnish information to the Commission.

PROBLEMS

-- Entitlement to both leave and to the same position upon return from leave will be disruptive to small stations.

--Will give rise to investigations and possible court litigations, based upon employees right to leave and

the right to the same position upon return from leave.

--Coercion would prohibit counseling to minimize disruption to unit operations.

--Access to information by the Commission impinges on DCI authority under section 6 of CIA Act to protect personnel information.

CHANGES

Attached.

ADMINISTRATIVE/INTERNAL USE ONLY

S. 2488

Add new section under Title II:

Notwithstanding any other provision of this chapter, the head of an employing agency may decline to provide mandatory unpaid leave benefits to certain facilities, operational units or employees when such facilities or units are so small, or such employees are so critical to the accomplishment of the agency's mission, that granting the leave would cause undue disruption of agency activities or would otherwise be impracticable, and it is not feasible to replace the employee or employees temporarily for the period concerned.

Revise § 6335: An employee who uses leave under section 6332 or 6333 of this title is entitled to be restored to the position held by such employee immediately before the commencement of such leave or a position of comparable or equivalent grade or pay and benefits and category of employment.

Add to § 6336: (c) For the purpose of this section, "intimidate, threaten, or coerce" does not include consultations or discussions concerning the scheduling of leave under section 6332(d) or 6333(d) of this title for the purpose of minimizing the disruption of the operations of the employing agency.

Revise § 6338: The Office of Personnel Management shall prescribe regulations necessary for the administration of this subchapter. The regulations prescribed under this subchapter shall be consistent to the extent practicable with those promulgated by the Secretary of Labor.

Under Title III, revise section 305(c): To the extent permitted by law, the Commission may secure directly from any Federal agency information necessary to enable it to carry out this title. Upon the request of the chairperson or vice chairperson of the Commission, the head of such agency shall furnish such information to the Commission.